

SPEECH

OF

HON. JOHN SHERMAN, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES, JAN. 23, 1858,

On the admission of Kansas as a State under the Lecompton Constitution.

Mr. SHERMAN said: Mr. Chairman, it is with some reluctance that I rise to speak to a question not now directly before the House. But, sir, as I know that the Lecompton constitution will soon be presented, and that an earnest effort will be made to admit Kansas into the Union as a State under it, I avail myself, for the first time, of the laxity of the rules in the committee, to state my opinions upon that subject. Another reason why I engage in this debate is, that I have received from the Governor of Ohio the resolutions of the Legislature of that State, requesting me to vote against the admission of Kansas into the Union under the Lecompton constitution.

This request is entirely consistent with my sense of duty, with the wishes of the Republican party, and the general sentiment of the people of my native State. It is said to be the product of a Democratic caucus; at any rate, it received the unanimous vote of the Democratic members of the Ohio Legislature. Although I seldom speak for that party, or act with it, and owe it no allegiance, yet, in this case, it will give me great pleasure to comply with the request.

There have been so many irritating incidents connected with Kansas from its organization as a Territory, that it is difficult to discuss any question relating to it with due moderation and temper. We have been compelled, as legislators, again and again to examine the disgraceful events which compose its history. Though these were for a time disputed, few among us would risk their reputation by doing so now. The irritation of the past is increased, rather than diminished, by the application now made to admit Kansas into the Union as a slave State, against the recent vote and the known will of a large majority of her people.

This application comes to us with the sanction of the President, and it is our duty to examine it with the attention its importance demands. The Constitution of the United States gives to Congress, and to Congress alone, the power to admit new States.

This general power is indispensably necessary

in our system of government. The framers of the Constitution wisely considered that it might be trusted to Congress as the direct representative of the States and the people. It is a power that never has been abused. Under it eighteen States have already been admitted; and the Old Thirteen have, by peaceful constitutional progress, extended the national jurisdiction and institutions over thirty-one sister States, extending from the Atlantic to the Pacific, and from the St. Croix to the Rio Del Norte.

And, sir, during this peaceful progress, no particular forms have been imposed upon the new States. The application need not come from the territorial government; it need not be authorized by a previous enabling act of Congress. It is only necessary that it emanate from the people of the new States; that it embody their will; is presented with their sanction and approval; and is republican in form. This simple principle was stated by Mr. Buchanan in the Senate of the United States, in 1835:

"It has been our practice heretofore to treat our infant Territories with parental care, to nurse them with kindness, and when they had attained the age of manhood, to admit them into the family without requiring from them a rigid adherence to form. The great questions to be decided are: Do they contain a sufficient population? Have they adopted a republican constitution? And are they willing to enter the Union upon the terms which we propose? If so, all the preliminary proceedings have been considered but mere forms, which we have waived in repeated instances."

Such, sir, were the opinions of the President twenty-three years ago; and I propose now to examine how far these precepts have been applied to Kansas. Has she been treated with parental care? Has she been nursed with kindness? Have her people adopted this constitution? Are we asked to waive forms and technicalities, and comply only with the will of her people? Sir, these questions, and their true answers, embrace the whole merits of the proposition before us.

And here, at the outset, I will state the radical difference between those with whom I act and that portion of the Democratic party who, with us, oppose this constitution. We insist that the territorial government established by Congress was

subverted with fraud and violence; that the so-called first Legislative Assembly was a usurpation, which no recognition could cure—one which it was a patriotic duty of the people to resist and overthrow, peaceably if they could, forcibly if they must, and which, in fact, has been practically overthrown; that the convention was a mere emanation from the usurpation, and, therefore, not entitled to any consideration whatever. On the other hand, those who agree with the distinguished Senator from Illinois, [Mr. DOUGLAS,] recognize the convention as a legal body, and base their opposition to the constitution wholly upon the refusal of the convention to submit the constitution to a vote of the people. Sir, I admire the boldness and ability shown by that Senator in maintaining his position. I can appreciate the indignant earnestness with which he seeks to defend the act of which he is the author. He has portrayed in striking colors the special pleading by which a reckless cabal in the Territory, aided by the President, seek to establish a constitution, in utter disregard of the will of the people. For this I admire him, and the country has given him the full measure of praise. But, sir, we cannot forget that he was the leading spirit in the repeal of the Missouri compromise, the cause of all the strife that followed; that when the territorial government was usurped by means of armed invasions, he excused, palliated, and defended them; that when the people of the Territory complained of fraud and outrage, he met them with denial, or, when that became impossible, with sneers and ridicule. All the reckless acts of the administration of President Pierce found in him their ablest defender; it was his influence that secured the election of President Buchanan; it was his opposition in the Senate that procured the defeat of the acts of the last House of Representatives, intended to secure to the people of Kansas their admitted rights. Even after it was shown that the faction whose acts he had maintained could command less than eighteen hundred votes in favor of members of a constitutional convention, after more than half the counties in the Territory were entirely disfranchised—he still maintained their authority. It was not until this faction was overthrown, in October last, that the Senator recurred to what he now declares to be the fundamental principles of the Kansas-Nebraska bill, *that the will of the people shall govern*. We will not stop to inquire why, through so many years of misrule and violence, this principle was held in abeyance; why it was not applied when Missouri furnished the legislators and voters of Kansas; why the Army of the United States was necessary to restrain it? This theory was proclaimed in 1854 to excuse the repeal of the Missouri compromise. We have been steadily and earnestly endeavoring to secure to the people of Kansas this right, and have, throughout the contest, been opposed by three formidable powers—a large portion of the citizens of Western Missouri, the Army of the United States, and the Democratic party, led by none more ably than the Senator from Illinois. We are happy, sir, that our principles are now approved by very many citizens of Missouri—that we do not fear the Army—and that we shall hereafter have the benefit of the votes and influence, as well as of the theories, of a large portion of the Democratic party.

But, sir, it must be understood that the Republican party stands now where it has stood from the beginning. While we maintain the power of Congress over the Territories, yet, ever since this power was so unwisely surrendered in the organization of the Territory of Kansas, we have felt that, from the character of the Senate, this power could not be exercised until Kansas would apply for admission as a State. We have steadily maintained that the popular will must not be defeated by fraud and violence. We have persistently demanded a fair election, and have shown conclusively that in such an event the contest in Kansas would be settled as we wish it settled—in favor of free institutions.

But it was obvious from the beginning that those who provoked this contest would not submit to the will of the people. While proclaiming popular sovereignty they uniformly overthrew it by fraud and violence. On the other hand, the Republicans in Kansas, while insisting on the power of Congress, uniformly demanded a fair election, and only resisted a palpable usurpation. The first legislative election was held on the 30th day of March, 1855. Both parties were prepared to contest it at the polls. There were then but two thousand nine hundred and five legal voters in the Territory, scattered over a large region of country, and, as was conclusively shown by proof, these electors would, if left to their undisturbed choice, have sent to each branch of the Assembly a majority in favor of free institutions. They would have practically reënacted the Missouri restriction, so far as Kansas was concerned, and thus have practically restored this question to where it was prior to 1854. But to defeat this result, and no other, (for no other motive could have induced the act,) an organized movement was set on foot in Western Missouri. It was gathered in secret lodges; and assuming the form of a military force, it invaded the Territory of Kansas. Companies of men were arrayed in irregular parties and sent into every council district in the Territory, and into every representative district but one. They went to vote, and with the avowed design to make Kansas a slave State.

I do not propose to spend any time in detailing events so familiar to the country, and so disgraceful to our national honor. It is sufficient to say that the poll-books of the election show that six thousand three hundred and seven votes were cast; and that of these only eight hundred and ninety-eight are shown on the census rolls as legal voters. Four thousand nine hundred and seven were proved to be residents of Missouri. The residence of about five hundred was not conclusively shown, but many of them were no doubt settlers who had arrived in the Territory after the census was taken. By these means the candidates voted for by the Missourians, many of whom were then and are now citizens of Missouri, were thrust upon the people of Kansas as a Legislative Assembly, armed with all the power conferred upon the people by the organic law. It was a usurpation, sir, which it was the highest patriotism to war against with every means with which the God of nature has furnished a free people. It was a declaration of war, to resist which the law of nations and the right of self-preservation authorized the use of stratagem, artifice, and open force.

These principles are recognized in Grotius, the

highest authority on the law of nations, and are necessary for the maintenance of republican institutions. And, sir, the people have only been restrained by the power wielded by the national Executive. Submission was out of the question. I regard it as the highest compliment I can pay that people, that, from the 30th of March, 1855, to this hour, they have never thought of submission; but have, in various ways, resisted and paralyzed the usurpation, and have now completely overthrown it. The only fault I have to find with them is, that they hesitated to avail themselves of even the forms of bogus law to overthrow the substance. In a war like that inaugurated on the 30th of March, I would not chaffer about the means, but keep only in view the great principle of our fathers, that resistance to tyranny is submission to God. Amidst all the denunciation that has been heaped upon the free-State men of Kansas, I desire to record my firm conviction that they have, by their prudence and courage in resisting and overthrowing usurpation, done more to secure our republican institutions against fraud and violence than any other portion of the people of the United States since the formation of our Government. They exemplified the declaration of the Kansas committee, that "it is not to be tolerated that a legislative body thus elected should assume or exercise any legislative functions; and their enactments should be regarded as null and void."

Sir, they never were of any practical force, and from the beginning have been met with an open, organized resistance. If you attempt to continue them, by adopting this constitution, you must prepare to enforce them by arms, and by a contest in which every principle of your Government, and every aspiration of liberty, will be against you.

There are but three modes of resistance, all of which have been resorted to. The first was the organization of a government emanating directly from the people, and in hostility to the usurpation. This was commenced immediately after the invasion, by a memorial to Congress. But as this body was not in session, steps were soon taken to organize a State government, preparatory to admission into the Union as a State. The first general meeting of the people was held at Lawrence, on the 15th of August, 1855, and was followed by other popular assemblies. These resulted in the election of members of a constitutional convention, which met at Topeka on the 23d of October, and framed a State Constitution. This proceeding, like any other effort of the people to form a State government, was necessarily inoperative until it received the sanction of Congress; and was so regarded by those who took part in it. It was, however, regular and fair—every stage of it receiving the sanction of the people. From that time to this it has continued by regular elections; and now, when the usurpation has passed away, is in session, and may pronounce the requiem of its adversary. The application for admission was presented to Congress, and after full debate and examination a bill admitting Kansas as a State under the constitution adopted at Topeka, passed this House on the 3d of July, 1856, by a vote of 93 yeas to 97 nays, but was defeated in the Senate.

The Topeka movement always kept within the

bounds of law. While it acted in open defiance of what was called bogus laws—namely, the enactments of the usurping Legislative Assembly—it scrupulously respected the acts of Congress.

Another mode of resisting this usurpation was by a refusal to pay taxes. This mode of resistance to tyranny is a familiar one in the history of every free Government. Hampden refused to pay ship money, and although a facile judiciary held it legal, yet his steady resistance contributed to the overthrow of Charles I. Our revolutionary fathers refused to recognize the claim of Parliament to levy taxes upon its colonies, and entered into non-importation agreements and various other measures to defeat the taxes, before the final resort to war. And so successful were the people of Kansas in this mode of resistance, that, to this day, the amount of taxes collected would not pay half the expenses of the collection; and it is said that many of the active agents of the usurpation have impoverished themselves in the vain effort to enforce the law. In most civil contests the judges are the subservient tools of the executive power. Such was the case in the revolutions in England, and in our own revolutionary struggle. Such has repeatedly been the case under the Constitution of the United States. The judges in Kansas are no exception to the rule. They are appointed by the President, hold their office at his pleasure, and uniformly upheld the worst acts of the usurpation. But in vain did they exercise their judicial power to enforce the bogus laws.

The only mode by which those laws could be enforced was by the employment of United States troops. Shannon, Woodson, Geary, and Walker, as Governors of Kansas, were in turn compelled to acknowledge that they could not enforce the laws except by the troops. Other means were tried in vain. A call by a civil officer for a *posse comitatus* only brought to his aid the citizens of an adjoining State. In two important instances—in December, 1855, and in September, 1856—the strange spectacle was presented of armed bodies of men marching from Missouri into Kansas, to aid in enforcing alleged laws in Kansas which the people of that Territory repudiated and resisted with open force. This singular proceeding, if it had been persisted in, would have lit up the flames of civil war from one end of the Union to the other. Although the contest was unequal, the people of Kansas never yielded to this invasive force; and in all cases the invaders made a sullen retreat without accomplishing their purposes. But wherever the troops of the United States appeared, then the people could yield without dishonor. However excited, they never resisted the majesty of the United States Government. The only government existing in Kansas was a military government, and the usurpation was utterly overthrown by the voluntary action of the people, except so far as it was sustained by military power. That such was the condition of affairs in Kansas is shown fully by the documents submitted to us by the President.

Governor Geary, in his letter to the President, of November 22, 1856, says:

"When I arrived here the entire Territory was declared by the acting Governor to be in a state of insurrection; the civil authority was powerless, and so complicated by partisan affiliations as to be without capacity to vindicate the majesty of the law, and restore the broken peace."

Governor Walker, in his letter to the Secretary of State, of July 20, 1857, says:

"There is imminent danger, unless the territorial government is sustained by a large body of the troops of the United States, that, for all practical purposes, it will be overthrown or reduced to a condition of absolute imbecility. I am constrained, therefore, to inform you that, with a view to sustain the authority of the United States in this Territory, it is indispensably necessary that we should have immediately stationed at Fort Leavenworth at least two thousand regular troops, and that General Harney should be retained in command."

Again, in his letter of August 3d, 1857, he urges a reinforcement to the already large body of troops in the Territory:

"The spirit of insurrection, of resistance to the laws, and to the territorial government, still pervades Kansas, and manifests itself in their newspapers, in violent harangues, in the enrollment and drilling of their troops, and in open threats for the use of the insurgent forces at the October election. Menaces, indeed, have been made in the most public manner, to drive the constitutional convention by force in September next from Leecompton. Under these circumstances, it becomes my duty to renew my request, so often made, that two thousand regular troops, chiefly mounted men, should be sent immediately into Kansas, together with two batteries."

The Secretary of State, by his letter of September 1, 1857, acknowledges the necessity of a military force:

"I learn from him [the Secretary of War] that, in addition to the four companies now in Kansas, eighteen companies are on the march for that Territory, and that fourteen other companies have been ordered for the same destination, making thirty-six companies in the whole, and comprising a force of about two thousand men. I cannot anticipate a state of things which can render a greater force than this necessary to the assertion of the supremacy of the law in Kansas."

Thus it appears that the usurpation, commenced by the invasion of March 30, 1855, was reduced to utter imbecility, except so far as it was sustained by the military power.

It only remains to record its final overthrow. It had sought to perpetuate its power by appointing all the local officers—sheriffs, clerks, justices, &c. By the organic law the House was elected for one year, and the Council for two years. In violation of law this time had been extended, practically, for near three years. The Council elected in March, 1855, held over until October, 1857; so that, during all this period, the rights secured to the people by the organic law were suspended. The election in October, 1857, was the first moment they could resume their rights without an open resistance to United States troops. But so bitter was the hostility of the people to the usurpation that they feared their voting might be construed into some kind of an acknowledgment of its legality. Rather than make this, even by inference, they would have put in force the Topeka constitution. But they were relieved from any appearance of yielding, by the authoritative declaration of Governor Walker, in his speech, made at Topeka in June, 1857:

"In October next, not under the act of the Territorial Legislature, but under the laws of Congress, you—the whole people of Kansas—have a right to elect a Delegate to Congress, and to elect a Territorial Legislature."

It is true that Governor Walker subsequently attempted to qualify this language by inserting the important word "only," so that it would read: "In October next, not only under," &c.

This was a mere evasion. The people claimed no right under the legislative enactments, but denied their legality.

The question of voting at the October election was fully considered by conventions of the people, at all of which the authority of the Legislature was denied.

Thus, at a convention of the people, held at Topeka, on the 15th of July, 1857, the following resolution was adopted:

"Whereas, Governor Walker, in his speech at Topeka, as reported in the 'Kansas Statesman,' of June 9, holds the following language: 'In October next, not under the act of the late Territorial Legislature, but under the laws of Congress, you, the whole people of Kansas, have a right to elect a Delegate to Congress and to elect a Territorial Legislature;' and whereas, Governor Walker has on various occasions used similar language: and whereas, under the above decision, 'the whole people of Kansas' may participate in an election for Delegate to Congress and for members of the Territorial Legislature without recognizing the validity of a bogus Legislature imposed upon them by fraud and by force: Therefore resolved—

"X. That we recommend to the people of Kansas that they assemble in mass convention at Grasshopper Falls on the last Wednesday in August, to take such action as may be necessary with regard to that election."

The delegate and mass conventions, held at Grasshopper Falls on the 26th of August, in pursuance of this call, passed similar resolutions in substance.

Such was the position of the people, maintained without compromise or concession. I need not repeat the results of the election. It is sufficient to say that the usurpation was entirely overthrown. The faction that had so long ruled the Territory, could command but two thousand five hundred votes; about one half of the invading force from Missouri, in March, 1855. But true to its instincts, it sought to control the elections, by frauds at Kickapoo, Oxford, and McGee, of the most shameless character. At Kickapoo, near one thousand votes were voted, and but a small portion were legal. From Oxford, an insignificant village in Johnson county, sixteen hundred and twenty-eight votes were returned; the names were copied in alphabetical order from a Cincinnati Directory, and include the names of many well known citizens of the State of Ohio, and among the rest that of the Governor of Ohio. The county of Johnson is part of an Indian reserve not open for settlement; I crossed it in 1856, and did not see a white man in it, except those traveling on the road. Judge Cato, in his letter to Governor Geary, of October 29, 1856, says:

"Johnson county has not as yet had a sufficient white population to make either a grand or petit jury, and no business requiring a jury has been done in that county."

And yet, in October, 1857, more votes were returned from a single precinct in it than were cast in Leavenworth or Lawrence. Governor Walker and Secretary Stanton describe a visit to it in their proclamation to the people of Kansas, of the date of October 19, 1857:

"Accordingly, we went to the precinct of Oxford, (which is a village with six houses, including stores, and without a tavern,) and ascertained from the citizens of that vicinity, and especially those of the handsome adjacent village of New Santa Fe, in Missouri, (separated only by a street, and containing about twenty houses,) that altogether not more than one tenth the number of persons represented to have voted were present on the two days of the election, much the smaller number, not exceeding thirty or forty, being present on the last day, when more than fifteen hundred votes are represented as having been given. The people of Oxford, as well as those of the neighboring village of Santa Fe, were astounded at the magnitude of the return; and all persons, of all parties, in both places, treated the whole affair with derision or indignation, not having heard the alleged result until several days after it had occurred."

And yet upon these spurious, fictitious, and fraudulent returns, the convention whose action we are called upon to indorse, base their apportionment for members of a State Legislature. From the county of McGee returns were sent in containing more than twelve hundred votes. This, also, was an Indian reserve, with a sparse population, giving, in June last, but fourteen votes.

It was by such means the usurping faction in Kansas sought to continue their power; but it was all in vain. A Legislative Assembly, fairly representing the people of Kansas, now wields all legislative power, and is now engaged in extirpating all traces of the usurpation.

And now, sir, when popular sovereignty is for the first time practically in force in Kansas, the President calls upon us to supersede it by a device of the usurpation. We are asked to invest the very faction thus defeated and overthrown by the people, with the power of a State government based upon the action of the bogus Legislature, and upon the subsequent frauds. The legislation of the people is to be defeated by the direct intervention of Congress. We are asked to sanction all the frauds and violence of the past. Sir, heretofore this intervention has been confined to the executive and judicial departments of the Government. It was the Executive power that removed successive Governors whenever they exhibited a spark of sympathy with the people of Kansas. It is that power which has imposed upon them Calhoun, Emery, Leocompt, Cato, Clarkson, Murphy, and *id genus omne*. But now the intervention of Congress is asked to force an organic law upon the people against their will.

Sir, you tell us you want peace; that you are tired of Kansas; want time to devote to other great interests of the country. Well, sir, we take you at your word. Give us peace; leave Kansas alone to the enjoyment of that liberty for which she has struggled so long and so well. Let us take no further thought of her, but leave her to herself. But, sir, while you cry, "Peace! Peace!" you thrust upon her an organic law, which she rejects, and you compel her to resort to revolution to overthrow it. While you cry peace, you station armies all over her prairies to overawe her people; and what is worse to a free people, you force laws upon her which she rejects and detests. And, sir, this odious tyranny is sustained by a system of technical pleading worthy of the age of Littleton or Coke, when government was based upon the maxim "that the king can do no wrong." Let us examine it.

The President at the outset assumes two propositions, neither of which is correct. The first is, that the Legislative Assembly is a valid one; the second is, that without express authority of Congress it may call a convention, and through it bind the people to a constitution not submitted to them. Here, sir, is no reference to the people; no reference to their inalienable rights. The doctrine of estoppel is thrust in their face, and they are required to look to the Territorial Legislature as the source, the origin, the exclusive possessor of all their rights.

The legality of the Territorial Legislature is based not upon the authority of the people, but exclusively upon the allegation that Congress had recognized it as valid. This allegation is thus

stated in the letter of the President to the Connecticut clergymen:

"It is quite true that a controversy had previously arisen respecting the validity of the election of members of the Territorial Legislature and of the laws passed by them; but at the time I entered upon my official duties, Congress had recognized this Legislature in different enactments."

Now, sir, I deny that Congress has ever recognized the validity of this Legislature; and am surprised that such an assumption was made by the President.

That President Pierce recognized that Legislature, and sought to enforce their enactments with United States troops, is admitted; but it will be as readily admitted that the President cannot make laws, or impose laws by recognition upon the people of Kansas. I admit that the Senate recognized that Legislature at the same time that many of its leading members, including the present Secretary of State, denounced their acts as *infamous*. But, sir, the Representatives of the people in this House never recognized it as a valid one; and as this is an important allegation, I invite the attention of the House to the action of the House during the last Congress.

The attention of the House was early drawn to this subject. Under a resolution of the House, adopted on the 19th of March, 1856, a committee was sent to Kansas especially charged to examine "in regard to any fraud or force attempted or practiced in reference to any of the elections which have taken place in said Territory." Upon the report of this committee, the bill to admit Kansas as a State under the Topeka constitution, already referred to, and which was based upon the position that the acts of the Legislative Assembly were null and void, passed this House. On the 27th of July, 1856, this House, by the decided vote of 88 yeas to 74 nays, passed the bill, commonly known as Dunn's bill, which denied the validity of the Legislature; declared their acts void; provided for the dismissal of all prosecutions under them; and forbid any prosecution for any violation or disregard of the enactments of that body at any time. The House, by a great number of votes, refused to make any appropriation for the compensation and mileage of this Legislative Assembly. This was done on the 14th of August, 1856, by the vote of 90 yeas to 97 nays, and was persisted in until the Senate yielded, and the appropriation for that purpose was stricken from the legislative appropriation bill. I defy gentlemen to point me out any law, anywhere, by which the last Congress authorized the payment of money to the first Kansas Legislature. It is true that, in the last session, in the bill making appropriations for the ordinary legislative, executive, and judicial expenses of the Government for the year ending June 30, 1858, the ordinary appropriation was made for the expenses of the Kansas Legislature; but, sir, this money could not be used, without a clear violation of law, to pay the expenses of the bogus Legislature. The appropriation was expressly for the year commencing July 1, 1857, and ending June 30, 1858. It was for the Legislature to be convened and held between those dates. Such a Legislature was elected, in October last, under the organic law, and is the one now in session.

Months before this appropriation commenced to run, the bogus Legislature had adjourned, and had only sought to propagate itself through a con-

stitutional convention. And if, sir, the President has diverted the appropriation for the Legislative Assembly for the current year, to pay the expenses of the old, rejected, dishonored body, whose functions had ceased before the current year commenced, he has done it in clear violation of law, and, whatever may be our party predilections, should be impeached by this House.

Sir, this appropriation for a Legislative Assembly in Kansas for the current year ending June 30, 1858, during which the illegal Legislature was not in session, and the steady refusal of the House, finally concurred in by the Senate, to appropriate money for the year during which it was in session, instead of being construed into a recognition of that body, is a decision of both branches of Congress against its validity.

Nor can the admission of General Whitfield, at the last session, as a Delegate, be construed into a recognition of that Legislature. At the first session, both he and Governor Reeder were rejected, because neither was elected under valid law, and the House could not determine which received the greater number of legal votes. At an election in October, 1856, to fill the acknowledged vacancy, no one was voted for but General Whitfield, and no one appeared to claim the seat but him. Under these circumstances, without considering whether the law under which he was elected was valid or invalid, he might be admitted; and his admission would raise no implication for or against the law.

But, sir, the last House did not leave this question to implication. On the 17th day of February, 1857, it passed, by the decided vote of 98 yeas to 79 nays, a bill for the relief of the people of Kansas, introduced by Mr. Grow; the preamble of this bill was agreed to by a vote of 95 yeas to 63 nays. To show the clear, decided repudiation by the House of this legislation, I will read the preamble and first section:

"Whereas the President of the United States transmitted to the House, by message, a printed pamphlet purporting to be the laws of the Territory of Kansas, passed at Shawnee Mission, in said Territory: and whereas unjust and unwarranted test oaths are prescribed by said laws as a qualification for voting or holding office in said Territory: and whereas the committee of investigation sent by the House to Kansas report that said Legislature was not elected by the legal voters of Kansas, but was forced upon them by non residents, in violation of the organic act of the Territory, and having thus usurped legislative power, it enacted cruel and oppressive laws: Therefore,

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all rules or regulations purporting to be laws, or in the form of law, adopted at Shawnee Mission, in the Territory of Kansas, by a body of men claiming to be the Legislative Assembly of said Territory, and all acts and proceedings whatsoever of said Assembly, are hereby declared invalid, and of no binding force or effect."

This bill passed the House but a little more than two weeks before the adjournment, when the President took the oath of office. How the President could, in the face of this act, assume that Congress, of which the House is the important part, had recognized this Legislature in different enactments, is beyond my comprehension. Sir, I call upon the friends of the President to make good this bold assertion, or the whole string of technicalities by which he supports the Lecompton constitution is worse than a broken reed.

The other assumption of the President my time will not allow me fully to discuss. The Senator

from Illinois [Mr. DOUGLAS] has called it a fundamental error, which lies at the foundation of the whole argument of the President. With due deference to such high authorities, I think the fundamental error is in recognizing the Territorial Legislature as having any authority at all; but as the Senator is committed by his action in the past upon this point, I will only express my concurrence with him, that in this proposition the President has committed a second fundamental error. And, sir, I wish to call the attention of the House to the speech of the President already quoted. He there says:

"No Senator will pretend that their Territorial Legislature had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

Contrast this opinion, twenty-three years ago, which no Senator would then contest, with the message. Then it was an act of usurpation for a Territorial Legislature to call a convention. Now a Territorial Legislature is so potent that Congress cannot require the constitution to be submitted to the people. Then the usurpation was utterly void unless sanctioned by the people. Now it is so potent as to override the will of the people. But passing this singular inconsistency, I desire, for the few minutes I have left, to call the attention of the House to the history and character of the Lecompton convention.

The act authorizing it was the act of the bogus (I trust the House will pardon the use of a word not to be found in any dictionary, but it expresses my meaning) Legislative Assembly of Kansas. It was passed by that body just two days after the House, by a decisive vote, declared its acts invalid, and of no binding force or effect. Every act to be done under it was to be done by its creatures—persons selected, not by the people, but by it. The sheriffs and probate judges, or deputies appointed by one of them, were to make the lists of voters, and no person was permitted to vote unless his name was upon the list. The whole election was to be managed, controlled, and returned by these deputies of a power whose position was attained by an illegal election. Thus the people had no control over the election; and even if its officers had obeyed the act, the source of their authority would have cast suspicion upon their acts. But the act was not obeyed by them. Governor Walker thus states the facts in one of the documents submitted to us by the President:

"On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken and the voters registered; and when this was completed the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give and (by no fault of their own) could not give a solitary vote for delegates to the convention. This result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty by law of making this census and registry. These officers were political partisans, disengaged from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and

therefore they were entirely disfranchised, and could not and did not give a single vote at the election for delegates to the constitutional convention.

The registry law was executed, and voters were registered in fourteen counties only, namely, Johnson, Lykins, Lynn, Bourbon, Douglas, Shawnee, Doniphan, Atchison, Leavenworth, Jefferson, Nemaha, Calhoun, Marshall, and Riley. In these fourteen counties the registry was grossly inaccurate. A large portion of the best known settlers were omitted, and many non-residents were included. The result was that, at the election, out of a voting population of about fifteen thousand, less than eighteen hundred votes were cast for the members of the convention. And this was not occasioned simply by a neglect to vote, by an indifference as to the result; for several times as many persons were disfranchised in the counties where the registry was not taken and where it was imperfectly taken, as voted at the election.

When the meagerness of this vote was known through the country, it was generally supposed that the convention would never meet, that the members themselves would abandon the movement. For some time a quorum could not be got together, and finally an adjournment was carried until after the October election. It cannot be doubted that if the Kickapoo, Oxford, and McGee frauds had been successful, the convention would have been abandoned as an abortion. But the cabal saw the scepter departing, and knew that the new Legislature would remove all traces of previous attempted legislation. Then, and not till then, the desperate expedient was resorted to of putting in force a State government and thus superseding the new Territorial Legislature. This could only be done through the action of the convention by framing a constitution and putting it in force without a submission to the people. But in the way of this reckless scheme there were many difficulties. There was the imbibed hostility of the people who looked upon the convention as the only residuum of the old tyranny, and who would, but for the United States troops, have scattered its members by force. There was the promise of the President, in his letter of March 30, 1857, appointing Governor Walker, that the constitution should be submitted to the people of the Territory, that they must be protected in the exercise of their right of voting for or against that instrument, and that the fair expression of the popular will must not be defeated by fraud or violence. There was the inaugural address of Governor Walker, that unless the convention submit the constitution to the vote of all the resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress; and that Kansas never can be brought into the Union, with or without slavery, except by a previous solemn decision, fully, freely, and fairly made by a majority of her people in voting for or against the adoption of her State constitution. There were his repeated speeches and promises to the people of Kansas, made with the sanction of the Administration, that the constitution must be submitted to the people, or he and they would assist in its defeat. There was the organic law of the Territory, the party cry—the shibboleth of popular sovereignty, that the people were to be perfectly free

to form and regulate their domestic institutions in their own way. There was the recent action of the Democratic party in Kansas sustaining Walker and pledging the party that the constitution should be submitted to the ratification of the people. There was the pledge of the president of the convention, and many of the leading delegates, that the constitution should be submitted. There was the danger of the destruction of the Democratic party, without whose potent aid the whole scheme of villainy would be defeated. There was the certainty of civil war in the Territory if the attempt was made to impose this constitution without submission; and the certainty of a revolution to change it.

One would have supposed that the most desperate men would have been deterred by these obstacles. Yet they deliberately concocted a constitution, and now ask our aid to put it in force without a submission to the people, and against their known will. If this had been done directly, we must have given them credit for boldness; but, to relieve the Administration as far as was consistent with their great purpose, they submitted one clause only of the constitution, that relating to slavery, to the people. But before any one could exercise this poor privilege, he must vote "for the constitution," and swear to support it, if adopted. The vote must be "for the constitution with slavery," or "for the constitution without slavery." In any event, it must be for the constitution. One half of the promise of the President, Governor Walker, and the Democratic party, was fulfilled. They said the people should be protected in their right to vote for and against the constitution. Surely they ought to be satisfied if they were allowed to vote for it! If the people had been allowed to vote against the constitution, they would have been so unreasonable as to have voted that way, and that would have been a direct intervention, by the people, against the President! Is it not strange, sir, that the faction that marshaled three invasions, that controlled all power for three years in Kansas by force and fraud, that boasted of the Oxford, Kickapoo, and McGee frauds, should, in the last stage of its existence, be driven to so shallow an expedient to maintain their power; and that the President of the United States should sanction the fraud? Sir, this device was not for the people of Kansas, but it was pabulum for the President and the honest masses of the Democratic party in the northern States. Among the settlers it deceived no one; in the South it deceived no one. Whether the slavery clause was voted in or voted out, slavery was in the constitution and protected by it. The recent elections in Kansas show how they regard the whole scheme and its authors. Both are repudiated, rejected, and despised. They will resist it with stratagem, artifice, and open force. Under forms devised by their enemies they now have control of a trio of governments. They are now nursing a territorial and two State governments; but, if let alone, will soon supersede all these by a State government formed by a legal convention, and sanctioned by the people. They do not ask your intervention. When it might have saved them from fraud and violence you did not interfere, but allowed the President, with the whole power of the Government, to uphold an odious tyranny over them. Having overthrown this, they only ask to be let alone. They hold you to your

WORDS—NON-INTERVENTION AND THE WILL OF THE PEOPLE.

Sir, I am conscious that but for one event it would be in vain to resist the admission of Kansas under the Lecompton constitution. It would be in vain to point to the invasion of March 30, 1855; to the illegal Territorial Legislature and its progeny; the constitutional convention; and to the innumerable frauds that form the history of both. All these would have been but as a rock in the way of a mountain torrent. They might have prolonged the struggle in this House; but experience has taught us that the interests of slavery and Federal patronage, when combined, can overcome all obstacles like honor, good faith, party promises, the will of the people, and the peace and prosperity of the country. When we met here I knew these were against us, and while prepared to resist, it was without hope. The Supreme Court had become the mere citadel of a local institution and was enthroned for life. The Senate, although much improved, was still against us. The message of the President only served to show that a struggle had taken place between his conscience and duty on the one hand, and his *allegiance* on the other; but that the result was against us. We knew that a majority of the Cabinet was from the South, and thus controlled the immense patronage of the Government. The signs of disaffection in high places, and among the northern Democrats, were visible. But we knew the power of party drill and what weak pretenses would "correl" the disaffected. We knew that the Democratic party was in the ascendant, and this party everywhere was controlled by the superior numbers and sagacity of the southern branch of it; whose guiding star through storm and sunshine, through victory and defeat, was ever the same—the domination of slavery. Under these circumstances, what could we hope? If a slave constitution was presented, what did the "inner temple" of the dominant party care that fraud, violence, and civil war stood in the way; that honor, personal and party pledges forbid; that their rallying cry, the will of the people shall rule, was trampled upon? I expected, as a matter of course, to see northern Democrats wince and bear the yoke impatiently; but in due time we see them excuse and then applaud the notable device—of submitting a constitution to the people, but requiring them to vote "for the constitution," and prohibiting all votes "against the constitution."

And, sir, now the only hope I have to defeat this constitution here is, that I can see no way in which slavery can, as the matter now stands, gain any practical advantage by indorsing this constitution. We now have the returns of the recent election. The returns of the vote on the 21st of December, on the submission scheme, show 6,063 "for the constitution with slavery," and 576 "for the constitution without slavery;" but included in the 6,063 are the following returns: Marysville, 232—a trading post one hundred and fifty miles from the Missouri river, and where there is scarce a settlement; Oxford, 1,266, and Shawnee, 729—both in Johnson county; and within an Indian reserve, where white men cannot settle; Delaware Crossing, a ferry station within the Delaware reservation, 254; and Kickapoo, a small vil-

lage opposite Weston, 1,017; in all, 3,498. These returns are manifestly fraudulent and spurious, leaving but 2,565 "for the constitution with slavery." This number includes alleged illegal votes at Fort Scott, Leavenworth, Iowa Point, and other places; but reject only those that are manifestly fictitious, as returns from places where three hundred legal votes could not have been given; and this miserable faction is represented by 2,565 votes. On the other hand, at a legal election held under authority of the Territorial Legislature, on the 4th January, 1858, and certified by Gov. Denver, a vote of 10,226, all confessedly legal votes, was polled against the Lecompton constitution.

Now, sir, if you dare, in the face of this vote, attempt to fasten upon the people of Kansas the Lecompton constitution, you will only deepen their hostility to it and to slavery, and enable them, by its speedy overthrow, to add another wreath to their well-earned laurels. They will resist you, and all the powers you can bring against them; and craven be he that would not aid them in the holy contest! Calhoun may, if he dare, certify and return a pro-slavery majority to both branches of the Legislature. The President may station troops in sight of every cabin. You may arm Lecompte and Cato with injunctions, attachments, writs of mandamus, and all the enginery of the law. You cannot force that people to submit to this constitution. They will resist it and overthrow it; and, sir, they will not be friendless and alone in this struggle.

But I trust that this dark cloud may pass away; that a returning sense of justice in southern Representatives, or some show of manly firmness in those from the North, will defeat this measure. I trust that the same sense of fraternal kindness that guided our fathers in their revolutionary struggle; that smoothed many difficulties in the formation of this Government; and, more potent than all else, that the guiding hand of Divine Providence may save our beloved country from the shock of civil strife, or civil revolution—the inevitable consequence of any further tyranny upon the people of Kansas.

In conclusion, allow me to impress the South with two important warnings she has received in her struggle for Kansas. One is, that though her able and disciplined leaders on this floor, aided by executive patronage, may give her the power to overthrow legislative compacts, yet, while the sturdy integrity of the northern masses stands in her way, she can gain no practical advantage by her well-laid schemes. The other is, that while she may indulge with impunity the spirit of filibusterism, or lawless and violent adventure, upon a feeble and distracted people in Mexico and Central America, she must not come in contact with that cool, determined courage and resolution which form the striking characteristics of the Anglo-Saxon race. In such a contest, her hasty and impetuous violence may succeed for a time; but the victory will be short-lived and transient, and leave nothing but bitterness behind. Let us not war with each other; but, with the grasp of fellowship and friendship, regarding to the full each other's rights, and kind to each other's faults, let us go hand in hand in securing to every portion of our people their constitutional rights.